

MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

August 27, 1996

The Capital Projects and Bond Oversight Committee met on Tuesday, August 27, 1996, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senators Tom Buford and Denny Nunnelley; Representatives Jim Maggard, Tommy Todd, and Jim Wayne.

Guests: Bill Hintze, Bart Hardin and Allen Holt, Governor's Office for Policy and Management; Armond Russ, Department for Facilities Management; Tom Howard, Kim Blitch, Marilyn Eaton-Thomas, Office of Financial Management and Economic Analysis; Dr. Robert Tarvin, School Facilities Construction Commission; Tom Willis and Ernie Tacogue, Department of Education; Camille Bathurst and Harvey Roberts, Kentucky Lottery Corporation; Cheryl Roberts, Justice Cabinet; Ken Clevidence and Mary Allen, University of Kentucky; Dr. Thomas Meredith, Western Kentucky University; Roger Peterman, Peck, Shaffer and Williams; Joseph McCorkle, Franklin County School District; Jenni Philpot-Clark, Kentucky Association of Counties; Libby Marshall, Kentucky School Boards Association; Sherron Jackson, Council on Higher Education; Jack Affeldt, Ethel Alston, Jerry Bailey, Sharon Cantrell, Karen Crabtree, Don Judy, Ed Sergeant, Charles Shirley, LRC.

LRC Staff: Mary Lynn Collins, Pat Ingram, Scott Varland, Rita Ratliff, Esther Robison.

Senator Buford made a motion to approve as submitted the minutes of the July 23, 1996 meeting. The motion was seconded and approved.

Chairman Damron said Correspondence items were provided:

Under New Business, the Finance and Administration Cabinet and Council on Higher Education submitted a report on projects to be funded from the 1996-98 University Restricted Funds Bond Pool. Bill Hintze, Governor's Office for Policy and Management and Sherron Jackson, Council on Higher Education, were present. Mr. Hintze said projects totaling about \$24.3 million are identified to be funded from the University Restricted Funds Bond Pool, authorized at \$35 million in the 1996-98 biennium. All debt service on these projects will be paid from university resources, not the General Fund. The 1996 appropriations bill authorized the Council on Higher Education, with the concurrence of the Secretary of Finance, to select specific projects for Bond Pool funding from project request lists submitted by state universities and reviewed in the 1996 budget-making process. Mr. Hintze said the selection of projects to be initially funded is based, in part, on a determination of which projects can move forward most quickly. He stated that universities request projects based on their priorities and their ability to identify sufficient revenue cash flow to support bonds issued to fund their projects. He said a future supplemental report is likely on additional projects approved for funding from the Pool. There being no questions, Chairman Damron said the Executive Budget Bill requires that projects funded from the Bond Pool be reported to the Committee, but no action is required by the Committee.

Returning to Old Business, Chairman Damron said at its last two meetings the Committee discussed the issuance of Tax and Revenue Anticipation Notes by school districts. This summer, for the first time, 43 school districts issued over \$100 million in short-term notes to address cash flow problems, and in some cases, as a short-term investment. Forty-one of the districts participated in the Tax and Revenue Anticipation Note program administered by the Kentucky Interlocal School Transportation Association (KISTA); in addition, the Franklin County School District participated in a similar program administered by the Kentucky Association of Counties (KACo), and the Jefferson County School District issued its own notes.

Chairman Damron said much of the Committee's discussion centered on oversight needs. While tax and revenue anticipation notes - used for some time by local governments - have great potential as good money management tools, Committee members voiced concern about a need for some level of oversight. He said only the Jefferson County School District note was reviewed by the Department of Education, and only because the District asked for the review. At the same time, he noted, the Department reviews all bonds issued by school districts. At the last meeting, the Committee voted to ask the Department of Education to review the situation and report

hand, all KISTA bond issues for school bus purchases have been reviewed by the Department's Office of District Support Services for financial considerations, and by the Department's Chief Counsel.

Mr. Willis said that school districts' participation in the KISTA and KACo programs was legal; they were reviewed by several bond counsel, and Jefferson County also discussed its proposed issuance with the IRS.

Mr. Willis stated that, according to IRS rules, the level of school districts' eligibility to participate in revenue anticipation notes is based on a district's largest monthly "cash flow deficit" between general fund revenue that is available and payments the district have to make. This amount, plus 5%, is the level at which a district can participate. He said the Department's main concern is how cash flow deficits are calculated and whether there really are the cash flow problems that some districts report. Mr. Willis said that, with over 40 participants this year and perhaps 100 next year, the Education Department does not want the additional duty of checking all this data. On the other hand, he said, statutorily it is clearly the responsibility of the State Board of Education to ensure proper management of school districts, financially and otherwise. He noted that, at Jefferson County's request, the Department reviewed the District's note issue through the exact same process it uses to review the District's revenue bond issues to construct facilities. He said this is a lengthy process.

Mr. Willis said the Department does feel, however, that it needs to provide additional oversight for future note issues, and plans to develop interdepartmental procedures for review of these issues. He noted, it will be impossible for the Department to monitor all districts in any one year, but the Department can set up a process to sample districts and do a select number each year to make certain deficit calculations are made properly.

Mr. Willis concluded by saying that at this point, the Department feels there is no need for legislative changes. Statutory authority is already in place for the Department to supervise and monitor districts. The Department will have a review process in place by next spring when districts will next be likely to issue such notes. Mr. Willis said the only legislative changes the Department foresees would be if districts resist compliance with the new policies and procedures; in that case, the Department may come back and ask for statutory authority to incorporate the oversight procedures.

In response to a question by Chairman Damron, Mr. Willis said the Commissioner's Office has not formally discussed the issuance of \$100 million in school district notes with the State School Board; information has been sent to board members and the issue may be added to the agenda of a future School Board meeting.

Chairman Damron asked about the deficit situation in Franklin County. Mr. Willis stated that Franklin County was one of 5 districts that closed the 1995-96 school year in a deficit situation. Normally, such districts have to present a formal plan to the State School Board for eliminating their deficit and all expenditures are reviewed by the Department. He indicated that had the Department been aware of Franklin County's intent to issue the notes through KACo, the Department would have had serious concerns because of the District's deficit situation. He said any guidelines promulgated about school note issuance will address districts in deficit situations.

In response to questions from Senator Buford, Mr. Willis said these notes are 12-month issues and will be paid off by the end of the current fiscal year and there are no limitations on how a district can use its proceeds. Senator Buford asked if the Board has the authority and funds to hire a CPA to handle the oversight. Mr. Willis said those types of contracts would have to go through the Personal Service Contract Review Subcommittee. Senator Buford then suggested that the State Auditor hire a CPA, and given the privilege to charge against bond/note proceeds for service, oversee the entire bond and note process to challenge whether issues are appropriately done. Mr. Willis stated that there are 4 CPAs on the Department's staff, as well as a General Counsel, but oversight is still a time-consuming process. Next year there may be 100 school districts issuing tax and revenue anticipation notes, so the plan will be to look at perhaps 25-30% of the districts per year.

Senator Buford suggested frequent audits of individual districts. Mr. Willis said each district has to have an outside audit performed at the end of each fiscal year, but the audits are not very detailed. Mr. Willis stated that the Department has met with State Auditor Ed Hatchett; his staff will be conducting audits on a select number of districts this year, not because of a problem, but to better understand the school districts. At the Auditor's invitation, the Department has suggested the Auditor look specifically at school districts' procurement processes and capital projects to provide for additional oversight.

In response to questions from Representative Wayne, Mr. Willis said no more

In response to questions from Chairman Damron, Mr. Willis said Education would have sufficient staff to track specific districts that have in the past shown a need for financial guidance, and to look at the rest on a rotating basis.

Chairman Damron said that at last month's Committee meeting, questions came up specifically about Franklin County's issuance of over \$4 million in tax and revenue anticipation notes through a program administered by the Kentucky Association of Counties (KACo). The disclosure information required to be filed with this Committee prior to going to market, pursuant to KRS 45.812, was filed only after the notes were issued. Because of questions raised, the Committee asked that appropriate parties involved in the Franklin County issue be available at today's meeting to explain the program administered by KACo and to answer members' questions about the Franklin County note. Present were Joseph McCorkle, Assistant Superintendent of the Franklin County Schools, Jenni Philpot-Clark, Administrator of KACo's Kentucky Advance Revenue Program (KARP), and Roger Peterman with Peck, Shaffer & Williams, who served as bond counsel on the issue.

Mr. Peterman explained that the KARP program is a cash flow borrowing program. He noted that counties are required to maintain two funds - a revenue fund and a general fund. School districts have three funds - a general fund, a capital and building fund, and a special revenue fund. At times these funds may not have adequate cash to meet obligations and counties could be in a situation where they have not received money from taxes, but have bills to pay. KARP is intended to assist in these types of cash flow problems. He said that these cash flow programs were developed over a long period of time, ensuring that forms were put together with proper projections made in compliance with federal tax law and applicable state laws. Mr. Peterman said the KACo program has been around for six years and continues to grow every year. He anticipated KISTA's program also will grow now that school districts see the benefits. The County program is the most conservative, with payments due around January 1, when counties should have the most cash available from property tax receipts to pay off notes.

In discussing why Franklin County did not file disclosure information prior to issuance of its notes, Mr. Peterman said he respectfully disagreed that any filing was required. He read the statute in question that requires disclosure information "prior to the issuance of revenue bonds or notes" and he said that the notes in question are not revenue bonds or notes, but cash flow tax anticipation notes. He said his office did file

chairman of KARP Board. The KARP program satisfied their cash flow borrowing needs.

Representative Wayne asked why Franklin County chose to do a six-month note rather than a nine-month note. Mr. Peterman said some counties need the money and the money is not actually invested. When it is not invested, you have to look at the interest rate on the note. He did not know how Franklin County would draw down its funds, but if it drew down the entire amount and used it for six months, the interest cost would be slightly lower in the KARP program. The difference in the programs is in the reinvestment opportunity, which Franklin County will not have if it draws down its funds.

In response to questions from Senator Buford, Mr. Peterman said the only cost to Franklin County to participate in the KACo program was interest costs. Counties make a sinking fund payment on their note January 1, and KACo then earns interest on the money from January 1 until June 30. All administrative costs are paid out of KACo's interest earnings.

Senator Buford asked what the advantages will be for school districts to go this route versus borrowing the money from a local bank. Mr. Peterman said in his experience, school districts were more likely to borrow between their own fund accounts than to borrow from a bank. He said this would vary on a case-by-case basis, noting that banks have a limited need for tax-exempt income which would affect the interest rate they were willing to offer. Senator Buford suggested that some local banks may be willing to forego charges of points or other fees on loans to school districts, so the districts will be able to borrow smaller amounts.

In response to questions from Senator Nunnelley, Mr. Peterman said the KACo program charges school districts no loan origination or other fees, only interest cost, to participate in KARP; costs are paid from KACo's interest earnings in the six months it has the note proceeds.

Chairman Damron asked Mr. McCorkle if the Franklin County School District was aware of the KISTA program, and if so, whether an evaluation was done of both programs. Mr. McCorkle said Franklin County chose the one it considered would best met the District's immediate needs and was the most cost-effective for the District.

Chairman Damron, noting that Mr. Peterman worked on both KACo and KISTA

Student/Auditorium Parking project was authorized by the 1996 General Assembly for \$800,000 in state surplus funds. Mr. Clevidence said UK is requesting approval to increase the project scope by \$120,000 (or 15%) in order to address additional grading and lighting for the parking area. He said the additional funds will enable UK to accept the lowest of 2 bids received. The additional cost will be paid for through private donations. The revised project scope is \$920,000.

In response to questions from Chairman Damron, Mr. Clevidence said this project was submitted for bid the first or second week of July. UK's position is the project will not be subject to amendments to the prevailing wage law enacted by the 1996 General Assembly. Chairman Damron stated that the Labor Cabinet indicated to the Committee in May that the new prevailing wage law would not be in effect on projects bid prior to July 15. Mr. Clevidence said, however, that the Labor Cabinet, in a letter dated July 16, notified the University that prevailing wage will apply to the Madisonville project, because parking lots are not exempt under the old prevailing wage law. Mr. Clevidence stated that the University disagrees with the Labor Cabinet's determination that construction of parking lots for educational facilities are not exempt from prevailing wage.

Representative Maggard asked how much paying prevailing wage would increase the cost of the project, and whether it would cause another cost overrun. Mr. Clevidence said prevailing wage was not included in the bid and UK is going to stick with the position that prevailing wage does not apply. He stated UK was asking for the full 15% scope increase permissible by statute, but did not expect to spend the entire amount. If it is determined that prevailing wage has to be paid, the 15% increase will cover that amount.

Chairman Damron said that if it is determined prevailing wage has to be paid, the Committee would like information on any additional cost to the project.

Mr. Clevidence confirmed for Representative Wayne that the private donated funds have been received. Representative Wayne expressed disappointment in the attitude of Mr. Clevidence and the University toward the Labor Cabinet on the issue of prevailing wage, noting that the Governor and the majority of the legislature endorsed the amendments to the prevailing wage law. Mr. Clevidence restated that, in the past, UK had not paid prevailing wage on such parking projects and the University was certain it would succeed on this issue again.

Representative Maggard made a motion to approve the 15% scope increase, with the proviso that UK report back on any portion of the increase that is not used. The motion was seconded and approved by unanimous voice vote.

Mr. Clevidence said UK also requested approval to increase by 15% the scope of the Soccer Field/Softball Field Relocation project authorized by the 1994 General Assembly at \$1,500,000 in Agency Funds. He said project bids were higher than anticipated and an additional \$225,000 is needed to complete the project, which consists of two soccer fields, a softball stadium and field, and a rugby field. He said the project was bid in May and is almost complete, except for lighting and some grading, and the project was exempt from prevailing wage. There being no questions, Representative Wayne made a motion to approve the scope increase. The motion was seconded and approved by unanimous voice vote.

Chairman Damron stated that KRS 154A.060 requires that proposed Kentucky Lottery Corporation purchases of equipment costing more than \$100,000 and systems costing more than \$400,000 be reported to the Committee for its review and determination. Ms. Camille Bathurst and Mr. Harvey Roberts of the Kentucky Lottery Corporation (KLC) were present to report the agency's proposed acquisition of an upgrade to its IBM AS/400 Computer System at a cost of \$691,355, as part of the KLC's Data Processing and Telecommunications Equipment Pool authorized by the 1996 General Assembly at \$3,350,000 in Agency Funds. Ms. Bathurst said the computer upgrade is necessary as the KLC takes over the instant ticket validation function now handled by an on-line vendor. After review by KLC's staff, outside consultants, and IBM, it was concluded that the processing requirements of instant ticket validation, added to current workload on the computer system, will cause the response time for all of the computer transactions to be unpredictable. The proposed procurement was included in the Lottery's Information Resources Plan and approved by the Kentucky Information Resource Management Commission (KIRM).

(In June 1996, the Committee approved the use of \$415,000 from the KLC's data processing and telecommunications pool for acquisition of an IBM automated call answering system.)

Mr. Roberts said that two years ago, the KLC began the process of reviewing the instant ticket processing format. The cost of this service by on-line vendors is about \$3.1 million annually, and KLC determined that the service could be done in-house for

He said about 55% of revenues are from the instant games, which are processed totally independent. At the same time, he added, the upgrade will give the KLC more latitude and flexibility in choosing vendors in the future. He said that past management had decided to bring it all together using one vendor, which tied the KLC to that one vendor. Separating the two to gain cost efficiencies would be more difficult. This project will sever that relationship and allow KLC to have flexibility in the future. In response to a question from Senator Buford, Mr. Roberts said the upgrade will be acquired from IBM under a state price contract.

Senator Buford made a motion to approve the acquisition of the computer upgrade. The motion was seconded and approved by unanimous voice vote.

Next were bond activity reports submitted by the Office of Financial Management and Economic Analysis (OFMEA). Ms. Marilyn Eaton-Thomas of the Kentucky Infrastructure Authority (KIA) was present to report seven new loans proposed from the KIA's Fund A, the Federally-Assisted Wastewater Revolving Loan Fund. First reported was a loan of \$407,000 to the City of Hawesville, Hancock County, to assist in funding a project to renovate and upgrade the City's wastewater treatment plant. The project will also replace a non-functioning package plant with a new pump station, expanding the service area to cover 161 new customers, including 148 residential. Other project funding includes a CDBG (community development block grant) of \$449,670 and local funds of \$14,330, for a total project investment of \$871,000.

The KIA loan will be at 3.8% for 20 years. There will be an approximately 23% increase in sewer rates. Customer sewer charges are now set at 140% of the water bill; the new rate will be an average of 172% of the water bill. The average residential sewer bill based on usage of 5,200 gallons for the 484 residential users will increase from \$24.28 to \$29.82 within the City and \$33.64 outside the City. (Big Rivers RECC and 3 local industries have indicated they may connect to the Hawesville sewer system; related potential revenue, however, was not included in financial projections for this project.) KIA's approval of the project loan is conditioned on final project approval by the Division of Water, and both water and sewer revenues must be pledged to the loan's debt service.

In response to a question from Chairman Damron, Ms. Eaton-Thomas said all KIA-assisted public infrastructure projects (over the \$250,000 threshold) after July 15 are subject to the new prevailing wage law provisions.

The Fund A loan will be at 1.8% for 20 years. Sewer rates were raised 14% in 1994 in anticipation of this project, and the city now proposes to increase sewer rates by 65%. Ms. Eaton-Thomas said the average sewer bill for the total 451 residential users, based on usage of 5,000 gallons, will increase inside the city from \$15.50 to \$25.59 and outside the city from \$23.35 to \$38.53. In addition, tap-on fees will be charged at \$300 inside city limits and \$400 outside the city.

Ms. Eaton-Thomas said the engineering firm has advised KIA that all of the prospective customers have been informed of their rates; the KIA is requiring clear evidence that at least 97 new customers have signed on to the new service under this rate structure. KIA also requires that the proposed rate increase be placed in effect by January 1, 1997.

Next reported was a proposed loan of \$1,062,600 to the City of Eminence, Henry County, to assist in funding Phase II of the city's sewer project which would: extend sewage collection lines to add 133 customers located within city limits, replace pump stations at three locations, and construct new interceptors. The city is under a Division of Water Enforcement Order and a tap-on ban; this project will satisfy the Order. (A new wastewater treatment facility, Phase I of this project, began operating March 25, 1995. The City of Pleasureville, with 352 new customers, hooked on to the system March 1996.) Other project funding includes a line-item state appropriation of \$200,000 and local funds of \$257,900, for a total project investment of \$1,520,500.

The Fund A loan will be at 3.8% for 20 years. Local monthly sewer rates for the total 1,024 residential users will be unchanged at \$23.43/5,645 gallons. (The City raised sewer rates 19% in 1994 to cover operating expenses and debt service for the sewer plant and collection line extension projects. No additional increases are planned.)

KIA approval is subject to 2 conditions: (1) If the City's occupational tax is repealed or fails to generate \$116,000 annually, sewer rates are to be increased immediately to offset the shortfall in debt coverage for KIA and FmHA loans associated with the Phase I and II sewer projects; and (2) The irrevocable letter of credit for \$85,000 that the City of Eminence has with Farmers Home Deposit Bank, Eminence, is to be increased to \$165,000 to cover Phase I and Phase II debt service.

treatment facility and provide treatment facilities for area communities including Emerling, Rio Vista, and Loyall. Harlan County Fiscal Court has committed to the regional facility for Emerling and Rio Vista, communities who have no treatment facilities and discharge their wastewater into the Cumberland River. The City of Loyall has not, as yet, committed to the regional facility; it has, however, agreed to accept and treat the effluent of Emerling and Rio Vista until the regional facility is operational. The new system will have the capacity to serve 7 other smaller communities who also have not committed to the project.

Other project funding includes a US Economic Development Agency grant of \$1,500,000, and Appalachian Regional Commission grant of \$500,000, a US Corps of Engineers grant of \$581,000, and local funds of \$5,000 for a total project investment of \$5,161,790.

The Fund A loan will be at 1.8% for 20 years. Residential sewer rates will increase approximately 38% for existing Harlan users - from \$15.34 to \$21.19 per 6,800 gallon usage. For the 210 other new residential users in Rio Vista and Emerling, the sewer rate will be \$20.51/6,800 gallons. (Outside city rates include no existing debt service.) Participation by Loyall would bring 390 additional customers to the system, and probably a downward adjustment in rates.

KIA approval is subject to several conditions including: (1) Sewer charges will be subject to review and approval by the Division of Water and KIA; and (2) Documentation must be provided that current and proposed customers have been made aware of proposed rates.

Also proposed was a Fund A loan of \$2,975,557 to the City of Grayson, Carter County, to fund completion of the City's 1976 sewer facilities plan by modifying the treatment facility, the trunk sewer system, and sewer lines. The project will also extend service to 200-300 households included in the 1976 plan but not yet on line. Many of these households are served by aging septic tanks, and the area's soil is not conducive to such systems. Two existing package treatment plants will be abandoned.

Other funding includes local funds of \$42,129, for a total project investment of \$3,017,686. The Fund A loan will be at 1.8% for 20 years. The residential sewer rate for the total 1,279 users will be unchanged at \$22.00/4,500 gallons. (While 300 new users are anticipated, KIA's financial analysis is based on revenues projected for only

existing system is at capacity and there is a significant infiltration problem. Other funding includes local moneys of \$613,550, for a total project investment of \$4,608,815. The Fund A loan will be at 1.8% for 20 years. Local monthly residential sewer rates will increase approximately 46% for the 1,410 users, from \$12.48 to \$18.19/6,300 gallons. Although there are no direct residential hook-ons associated with this project, two new industries will impact the system and its revenues: an industrial park is being planned and a 157-bed hospital opened in March 1996.

KIA approval is contingent on the city agreeing to pledge its gas, water, and garbage operating profits in amounts sufficient to meet the threshold debt coverage ratio of 1.0.

The final Fund A project involved a proposed loan of \$1,282,576 to the City of Morehead, Rowan County, to assist in funding an extension of 6.5 miles of sewer lines. It will serve 323 customers in the Clearfield Creek Community adjacent to the City of Morehead. This area is densely populated and has poor drainage and soil conditions. Septic systems and straight pipes to the creek are utilized.

Other funding includes a CDBG of \$993,000 and local funds of \$81,600, for a total project investment of \$2,357,176. The Fund A loan will be at 3.8% for 20 years. Local sewer rates, at 4,000 gallons usage, for the total 2,780 residential users will be unchanged at \$12.37 in the city and \$24.74 in the county.

Representative Maggard asked how interest rates are set for Fund A loans. Ms. Eaton-Thomas said in the past, the rate was based on whether a county's median household income was lower than the state average. About a year ago it changed, so there is now a standard rate applied to all applicants unless they qualify for a hardship rate. "Hardship" is determined by a two-prong test: (1) income - whether median household income is lower than state average; and (2) user rates - whether the new sewer bill exceeds 1.25% of median household income.

Representative Maggard asked what could be done to extend water in Breathitt County and what would be the approximate interest rate. Ms. Eaton-Thomas said the Fund A program funds only wastewater-related projects, but there are currently two KIA programs that can fund water projects. The Fund B program is available, if job creation is involved; Breathitt County would qualify for a 2% Fund B loan. If there is no job creation involved, then the Fund C program would have to be used and the interest rate

Kentucky will receive approximately \$9-12 million in federal funds per year which the state must match at \$.20 to each dollar. Ms. Eaton-Thomas said passage of the new federal law was anticipated by the 1996 General Assembly and state money to match the federal funds was appropriated. The interest rate for that program has not yet been set.

Senator Buford made a motion to approve the seven Fund A loans, subject to the conditions stipulated by the KIA for each loan project. The motion was seconded and approved by a unanimous voice vote.

Ms. Eaton-Thomas also reported a modification of a KIA loan project approved by the Committee in October 1994 - a Fund E (Solid Waste Revolving Loan) loan of \$723,650 to the City of Campbellsville, Taylor County, on a \$733,650 project to complete closure of the city's landfill. The project involves installation of a final cap and a leachate collection system; the city is under an Agreed Order to comply with state regulations for closure of the landfill.

Ms. Eaton-Thomas said KIA is reporting reapproval of the Fund E loan with no increase in the KIA loan but a 112% increase in the total project cost. Delay on the project was the result of the time it took the city to get a final closure permit. The permit was issued May 2, 1996. Part of the cost increase is due to a revised budget that includes closure-related costs incurred by the city since 1989 that were not previously identified. Increases in the construction and engineering fees are the result of the passage of time, additional information, and better cost estimates. All additional costs are to be paid for from city funds; the KIA loan amount remains the same. The total project scope is now \$1,552,756. KIA requires, as a condition of loan reapproval, that the city pledge revenues from its sanitation department to repayment. Chairman Damron said action is not required on this re-approval; the Committee approved the original project, and the amount of the KIA loan remains the same.

Ms. Eaton-Thomas also noted that KIA recently started a new program to provide short-term loans for planning and design costs for wastewater projects.

Mr. Tom Howard of OFMEA and Dr. Bob Tarvin, School Facilities Construction Commission (SFCC), was present to report new bond issues. First reported were School Building Revenue and Refunding Bonds, Series 1996, with state funding through SFCC participation in annual debt service payments, for the following school

1987 and 1989. Annual SFCC debt service participation of \$202,510 and locally-funded debt service of \$78,202.

c. Ft. Thomas Independent (in Campbell County) - with gross proceeds of \$185,000, to complete technology wiring, provide new ventilation for a computer lab, and renovate restrooms at Moyer Elementary. Annual SFCC debt service participation of \$15,500 (100%).

d. Letcher County - with gross proceeds of \$3,300,000, to refund school bonds sold in 1986 and 1987. Annual SFCC debt service participation of \$247,990 and locally-funded debt service of \$146,232.

e. Nicholas County - with gross proceeds of \$125,000, to finish replacing exterior doors and windows at the high school. Annual SFCC debt service participation of \$10,300 (100%).

f. Walton-Verona Independent (in Boone County) - with gross proceeds of \$195,000, to complete technology power wiring at the middle and high schools, and new roofing on the high school gym. Annual SFCC debt service participation of \$4,271 and locally-funded debt service of \$12,329.

g. Woodford County - Series A, with gross proceeds of \$275,000, to purchase kitchen equipment for the high school. Annual SFCC debt service participation of \$11,700 and locally-funded debt service of \$10,000.

h. Woodford County - Series B, with gross proceeds of \$8,935,000, to renovate the high school. Annual SFCC debt service participation of \$100,000 and locally-funded debt service of \$900,000.

Bond Payee Disclosure Forms and additional preliminary information for each proposed new bond issue were provided, and none of the new issues required an increase in local school tax rates.

Chairman Damron asked why so many small bond issues were reported this month. Dr. Tarvin explained that each district has four years to use dollars allocated by SFCC. Some districts have saved this money through a biennium, trying to accumulate enough to do a large project; however, now the four-year deadline is September 15 and funds allocated to districts will be lost if they are not used. Therefore, districts have opted to do smaller projects to avoid losing the SFCC funds. Dr. Tarvin noted that some of districts' highest priorities are relatively low-cost items known as "KERA strands" - such as resource centers and technology power wiring.

Chairman Damron said the percentage of issuance cost is very high for some of

ran 4.29%; and, for all of the 355 bond issues during that time period, the cost of issuance ran 2.8%.

Chairman Damron asked if SFCC has considered combining several smaller issues into a single larger one. Dr. Tarvin said SFCC has statutory authority to do that, and did so in 1986 and 1988, but policy has been to never do it again. Districts must have contracts in hand before bonds can be sold, and the administrative task of coordinating 8-10 construction projects proved very difficult. He suggested a better solution would be a higher limit on issuance.

Senator Buford made a motion to approve the eight SFCC-assisted school bond issues. The motion was seconded and approved by unanimous voice vote.

Also reported was proposed issuance of School Building Revenue Bonds, Series 1996, with 100% locally-funded debt service and no SFCC debt service participation, for Harlan County School District. The issuance, with gross proceeds of \$840,000, will finance roof replacement at Cawood High. Bond Payee Disclosure Forms and additional preliminary information were provided for the bond issue. Ms. Mary Lynn Collins, Staff Administrator, said the Committee's staff had reviewed the new bond issue and found that all required information has been provided, and there is no related increase in local school taxes. Bond payee information must be provided for locally-funded school bonds prior to issuance, but Committee action is not required.

Mr. Howard next reported two new bond issues for state entities. First was Kentucky Higher Education Student Loan Corporation (KHESLC) Insured Student Loan Revenue Bonds, 1996 Series A and B, to provide funds for purchase of student loans. Series A, with gross proceeds of \$25,000,000, is a new money transaction that utilizes the Corporation's allotment of the private activity bond cap. Series B, with gross proceeds of \$2,500,000, is to finance a refunding of maturing bonds from the 1991 Series B issue that will extend the tax-exempt status of those securities until the year 2003. The A and B bonds are expected to sell by negotiation on September 10, 1996, and will be insured by MBIA. Series A will have a 30-year term with a variable interest rate. Series B will have a seven-year term and an estimated interest rate of 5.1%, which will result in an estimated total present value savings of \$145,000. Series A has ratings of Aaa, AAA, and AAA; Series B has ratings of Vmig-1, A-1, and A-1.

Also reported were Kentucky Housing Corporation (KHC) Housing Revenue

for 15 years; Series C will be at 6.20% with final maturity on 7/1/2028. Series D, with gross proceeds of \$14,615,000, will be non-AMT bonds, and Series E, gross proceeds of \$19,330,000, will be AMT securities that utilize maturing bonds and redemptions to gain the favorable tax provisions of these issues. Series D will be at 5.90% for 15 years; Series E will be at 6.20% with final maturity on 1/1/2028. Series F bonds, with gross proceeds of \$10,000,000, will be "new money" bonds at 7.70% with final maturity on 1/1/2007. The Series B, C, D, E, and F bonds are expected to sell by negotiation on September 16, 1996, with ratings of Aaa and AAA.

Representative Wayne made a motion to approve the new KHESLC and KHC bonds. The motion was seconded and approved by unanimous voice vote.

Also provided was a follow-up report (approval letter) for a previously approved bond issue - Western Kentucky University Housing and Dining System Revenue Bonds, 1996 Series M, with gross proceeds of \$3,000,000, approved by the Committee as "Series L" in April 1990. This issue was purchased by the US Department of Education. The unusual structure of the transaction is such that, although the sale date of the issue was November 5, 1991 and the below-market interest rate of 5.5% was set at that time, interest expense did not begin accruing until the closing date of August 21, 1996; nor were the moneys released until now. (The US Department of Education requires projects to be 80% complete prior to closing on loans.)

Issuance proceeds financed Residence Hall Improvements, including renovations, life-safety improvements, furnishings and equipment, and other modifications. The Residence Hall Improvements project was originally authorized by the 1988 General Assembly at \$5,000,000 in agency bonds, and reauthorized by the 1990 General Assembly at the reduced level of \$3,000,000. WKU fronted funds for the project through its Housing and Dining Revenues which are now being reimbursed with bond proceeds. (Note: In January 1995, the Committee approved an allocation of \$88,555 from the state capital construction and equipment purchase contingency account to meet the low construction bid for the final phases of the project.) Debt service payments will begin December 1996 and final maturity is December 1, 2025. Issuance costs and the debt service reserve were funded from agency sources rather than from bond proceeds.

Since the initial report to the Committee on the WKU issue was five years ago, the Committee elected to re-approve the issuance. Representative Wayne made a motion

Commissioner Armond Russ, Department for Facilities Management, were present. First reported was an allocation of \$30,000 from the state Emergency Repair, Maintenance, and Replacement Account to pay for legal services associated with efforts by Murray State University (MuSU) to recover losses from insurance companies as a result of the July 15, 1994 fire in the Old Fine Arts Building on the MuSU campus. Three earlier emergency account allocations, totaling \$1.5 million, were made to correct fire, smoke, and water damage to the Old Fine Arts Building and two adjacent buildings.

Efforts to recover losses have been unsuccessful so far due to a disagreement over the cause of the fire. Because of a statute of limitations deadline of July 16, the Finance Cabinet and MuSU filed a lawsuit against CNA Insurance Cos. Inc., the insurance company for the contractor that was working on the Old Fine Arts Building at the time of the fire. The additional \$30,000 increases the total allocation from the emergency account for fire damages to \$1,530,000.

Mr. Hintze said it is the Administration's intent to pursue the litigation to get the damages and the insurance, and to make sure that the culpable party remains legally liable. The state has been unable to resolve that issue to date, and litigation needs to move forward. Finance has employed counsel and has no other source of funds to pay for legal services. If the Cabinet is successful in whole or in part, he said, it intends to repay the emergency account from the proceeds.

Chairman Damron said allocations from the emergency account must be reported to the Committee within 30 days, but Committee action is not required.

Next reported was an allocation of \$134,800 from the emergency account to fund repairs and renovation at the Central Kentucky Treatment Center in Jefferson County, the state's only maximum-security detention unit for juvenile offenders, run by the Justice Cabinet. The allocation is to fund repair of vandalism and fire damages resulting from a June 29 inmate disturbance, as well as make security improvements and State Fire Marshal-ordered safety improvements. (Finance reported there is insurance on the Treatment Center building but not its contents.)

Mr. Hintze said the maximum-security juveniles housed at the Center trashed almost the whole building. As a consequence, the Commonwealth has incurred significant costs in putting the maximum-security facility back together. It will also

reimbursement is not yet known, but any recovery of funds from insurance will be used to repay the emergency account. (Improvements involving security and fire protection, however, will not be reimbursed from insurance payments.)

Mr. Hintze said if the state is going to continue to use this facility long-term to house juvenile offenders, a policy decision as yet unmade, additional costs will be incurred making additional improvements required by the State Fire Marshal. Should a facility replacement plan be developed with legislative backing, he said, those costs can probably be avoided.

Next reported was a proposed fund substitution and scope increase for the Diddle Arena Sound System Replacement project at Western Kentucky University (WKU). In November 1995, the Committee approved this unbudgeted project which was to be financed by \$250,000 in private unidentified-donor funds. Mr. Hintze said, when previously reported, it was thought this would be paid with 100% from private donations, and in fact that those donations had already been committed. He said that has not proved to be the case. WKU has authorized the work to be done and there are invoices to be paid, so the University has asked that the source of funds for the project be changed to university or agency resources. WKU will also have a fundraising drive to raise private money to reimburse itself for the cost of the new system. Mr. Hintze said this was a misunderstanding and obviously an embarrassment. The Finance Cabinet has approved a fund substitution using WKU agency funds and a project scope adjustment of \$1,000 (0.4%), for a total project scope of \$251,000.

Representative Wayne asked if something is being done to make sure this kind of situation does not recur. Mr. Hintze said on those few projects where private funds are pledged, the Finance Cabinet has in the past gone through a process of obtaining certifications of the availability of the funds on a schedule that coincides with construction from the respective university or state agency. It is then forwarded to the Finance Secretary for review and scrutiny. He said he was unaware of this situation ever happening before. He said the Cabinet in the future will ask, as it has before, that the fund source be a certainty and a reliable source, and that the pledges be verified. He said he thought this was just an aberration that happens very rarely. He said the Cabinet would be open to suggestions.

Representative Wayne said he recognized that in this instance the donor wished to remain anonymous, which has to be taken into account. He suggested that the

Senator Buford expressed reservations that this may scare off donors, because they may not wish to sign a form, for a variety of reasons, to have their contributions recorded. Sometimes a donor may have to back out for unforeseen reasons, and even if that happened, he said he was not sure the state would want to "hold the donor's feet to the fire."

Representative Maggard made a motion that the proposed new policy be submitted to Finance Secretary McCarty for review. The motion was seconded and approved by unanimous voice vote. Representative Maggard then made a motion to approve the fund substitution and scope increase for the WKU project. The motion was seconded and approved by unanimous voice vote.

Mr. Hintze said the final report involved clarification of total funding authorizations for three Corrections Department projects. For the first two projects, the 1996-98 budget bill, HB 379, identifies the current appropriation only and does not list any prior project authorizations. Total funding for the Blackburn Correctional Complex Sewer Line project includes the 1990 authorization of \$427,000 in Bond Funds, the 1996 authorization of \$168,000 in Investment Income, and an emergency account allocation of \$150,700 reported to the Capital Projects Committee in January 1995, for a total authorization of \$746,200. Total funding for the Bell County Forestry Camp Sewage Treatment Plant project includes the 1994 authorization and the 1996 reauthorization of \$660,000 in Bond Funds, plus the new 1996 authorization of \$310,000 in Investment Income, for a total authorization of \$970,000.

For the third project, Construction of 150-bed Maximum Security Dorm at Kentucky State Reformatory, the Finance Cabinet clarified that the authorized project scope includes \$453,000 in Bond Funds authorized for design in 1994. The 1996-98 Budget of the Commonwealth, Volume II mentions the design funds, but does not state the amount. With the 1996 authorization of \$8,800,000 in Investment Income, the total project authorization is \$9,253,000.

Chairman Damron said several information items were provided for members:

1. The Finance and Administration Cabinet's official certification to LRC of the Undesignated Fund Balance in the General Fund at the end of the Fiscal Year. Finance reports that there is enough money in the fund balance to fully fund both the

Chairman Damron said staff also provided for the Committee's information updated fund balance reports for the state's capital construction and equipment purchase contingency account and the emergency repair, maintenance and replacement account.

Chairman Damron said the next Committee meeting is scheduled for Tuesday, September 24, 1996, at 1:00 p.m. He requested that the Finance Cabinet provide status reports at the September meeting on the two authorized convention center projects - the Commonwealth Convention Center Expansion and the Northern Kentucky Convention Center, as well as an update on the EMPOWER Kentucky program. There being no further business to come before the Committee, the meeting adjourned at 3:25 p.m.